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December 1, 2015

VIA OVERNIGHT MAIL

REVISED Matrix Form

Honorable Thomas C. Miller, J.S.C.  
Superior Court of New Jersey  
20 North Bridge Street  
Somerville, New Jersey 08876

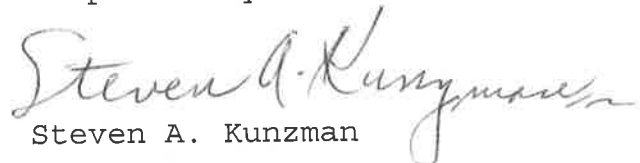
Re: In the Matter of the Borough of Frenchtown  
for a Judgment of Compliance of its Third  
Round Housing Element and Fair Share Plan  
(Mount Laurel) - Docket No. HNT-L-309-15  
Our File No. C22170

Dear Judge Miller:

We have been advised that there was a format error on three pages of our submission. We have attached a revised submission for your review. The Borough's Planner, Elizabeth McKenzie, has already provided the revised submission to the interest parties and the Special Master.

Thank you for your continued consideration.

Respectfully submitted,

  
Steven A. Kunzman

SAK/nam  
Enc .

Honorable Thomas C. Miller, J.S.C.  
Superior Court of New Jersey  
December 1, 2015  
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cc: Mayor and Council of the  
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Service List  
(all w/enc.)

## Service List

Parties required to be given notice and copies of the pleadings pursuant to In re Adoption of N.J.A.C. 5:96 & 5:97 by N.J. Council on Affordable Housing, 221 N.J. 1(M-392-14) (067126) Decided, March 10, 2015.

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## **SUMMARY OF THIRD ROUND COMPLIANCE PLAN**

Prepared by Elizabeth C. McKenzie, AICP, PP

November 16, 2015

### **Basis for Obligation**

The Honorable Thomas C. Miller, JSC, has ordered the municipalities seeking Declaratory Judgment actions in his vicinage to submit draft third round fair share plans using the matrix forms attached to this report, with such submission due by December 1, 2015. Judge Miller has also directed that, for the time being, municipalities should use the fair share allocations in COAH's 2014 Rules, which had been proposed as N.J.A.C. 5:99 but never adopted, as a benchmark for compliance progress.

According to COAH's 2014 Proposed Rules, Frenchtown's total fair share obligation through 2024 consists of a Rehabilitation Share of 4 units, a 1987-1999 Prior Round Obligation of 2 units, a 1999-2014 Prior Round Obligation of 8 units (without deducting any recorded credits), and a Prospective Obligation for 2014-2024 of 6 units.

Between 1987 and 1999, Frenchtown Borough was determined to have a fair share obligation (for new construction, at least) of only two (2) units. For the applicable 12 year period, this worked out to be an affordable housing accrual rate of .167 units per year. If this accrual rate were applied to the 26 year period from 1999 to 2025, the Borough's obligation for the entire 1999-2025 time period would be only 4.34 (or 5) units. At this time, it is unknown exactly what the Borough's obligation will be determined by the Court to be, but for the purposes of consistency with Judge Miller's Order, the "working obligation" is the one in COAH's Proposed Rules from 2014.

### **Compliance with Original Prior Round Obligation 1987-1999**

The Borough has fully satisfied its original (1987-1999) prior round obligation with 2 out of the 3 affordable units created in the 16 unit DeSapio Senior Housing Project at Eleventh and Harrison Streets. Two of those units are low income units, and one is a moderate income unit. At the time these units were created, the Borough's original prior round obligation was thought to be 3 units. It was later recalculated by COAH to be only 2 units.

The 3 DeSapio project units were permitted to be counted in fulfillment of the prior round new construction obligation, even though they were all age-restricted, based on N.J.A.C. 5:93-5.14, which sets forth the method for calculating the maximum number of age restricted units that can be used to fulfill the fair share obligation, and the advice of COAH's staff. Frenchtown received Substantive Certification of its revised second round Housing Element and Fair Share Plan from COAH in 2002.

### **Compliance with "Gap" Prior Round Obligation - 1999-2014**

As explained in the foregoing paragraph, Frenchtown entered the 1999-2014 period with one excess credit from the third age-restricted unit (a low income unit) in the DeSapio Senior Housing project.

COAH's 2014 Proposed Rules calculated Frenchtown's 1999-2014 Prior Round Obligation to be 8 units. *Frenchtown had already addressed the fulfillment of this portion of its obligation in its Certified Third Round Plan.* According to the Borough's Certified Third Round Plan, two projects, River Mills and Shale Cliff, would meet the entirety of the Borough's obligation (at that time intended to extend through 2018). These two projects are mixed use projects, but both include a substantial residential component as part of the mix.

A total of six (6) affordable units will be provided in these two projects (representing a set-aside rate of approximately 15% in each case), and none of these units will be age-restricted. Both projects are redevelopment projects within the Borough's Village Center Rehabilitation Area. Both projects have zoning in place (via the Village Center Plan) and both have now received preliminary and final site plan approvals (at the time the Third Round Plan was prepared and submitted to COAH in 2008, Shale Cliff had not yet been approved).

River Mills is currently under construction. Construction has not yet started at Shale Cliff, but the developer is still actively pursuing his other approvals and hopes to start construction in 2016.

The combination of these two projects plus the excess credit from the third DeSapio Senior Housing affordable unit yields 7 units, plus up to two rental bonuses (based on agreements with the developers to do rental units) for a total of 9 credits against the 8 unit 1999-2014 Prior Round Obligation.

### **Compliance with Prospective Fair Share Obligation**

In 2009, a developer approached the Borough with a proposal to redevelop the former Ceramics Plant property, a site located along Harrison Street, between Eighth Street and the extension of Tenth Street, just south of a Borough's Park and directly opposite the Borough's Edith Ort Elementary School on Harrison Street. In 2009, after numerous hearings and an amendment to the Borough's Master Plan, Overlay Zoning was recommended to the Borough Council by the Planning Board and adopted by the Borough Council. The Overlay Zoning provides for the development of this roughly 6.9 acre site with 111 dwelling units, of which at least 17 (if rentals) and possibly as many as 22 (if for sale) would be affordable.

The original developer (Fieldstone) is no longer in the picture, and a second developer has approached the Borough Council requesting that the site be considered for designation as an Area in Need of Non-Condensation Redevelopment. The Borough Council retained a consultant to prepare a report justifying such a designation, and, in 2014, the Borough Council voted to declare the site as an Area in Need of Non-Condensation Redevelopment.

The Borough Council has asked the Planning Board to prepare a draft Redevelopment Plan for consideration by the Borough Council. A subcommittee of the Planning Board has been working with the redeveloper to accomplish this. A draft Redevelopment Plan is expected to be presented to the full Planning Board for discussion at its November meeting.

The draft Redevelopment Plan proposes more units than had initially been approved under the Overlay Zoning. Since no action has been taken on the draft Redevelopment Plan, the density of development and affordable housing yield contemplated under the Overlay Zoning, which remains in place, is reported for this submission.

Using COAH's projected 2014-2024 prospective need obligation for Frenchtown of 6 units, the redevelopment of the Ceramics Plant site, will, based on a 15 percent set-aside rate for rental affordable units, *yield at least 17 affordable housing units*. This would more than satisfy the Prospective Fair Share obligation. All of these affordable units will be family units (not age-restricted), and they are expected to be rental units, in which case at least 2 of the low income units will be affordable to very low income households, earning 30 percent or less of median income (as required by Frenchtown's adopted Affordable Housing Ordinance).

***Based on the foregoing, Frenchtown will more than satisfy its 6 unit Prospective Fair Share Obligation as calculated by COAH in 2014.***

### **Rehabilitation**

To address its second round rehabilitation obligation, the Borough of Frenchtown had participated in a rehabilitation program administered by the Hunterdon County Housing Corporation. This arrangement had caused the rehabilitation of seven (7) units within the Borough, five of which were completed after April 1, 2000, and before December 20, 2004, and thus qualified for crediting against the rehabilitation obligation as determined by the 2000 Census.

In the Certified 2008 Third Round Plan, the Borough anticipated contracting with Housing and Community Development Services, Inc., (HCDS) to administer a Housing Rehabilitation Program for the remaining two units. At this time, Hunterdon County staff is working on the logistics of starting a rehabilitation program designed to help the County's constituent municipalities comply with the rehabilitation components of their affordable housing obligations. Should such a program be instituted by the Freeholders, Frenchtown would likely choose to participate in it. Frenchtown's current rehabilitation obligation, based upon both the 2010 Census and the COAH 2014 Rule Proposal is 4 units.

If the Borough so chose, it could meet the rehabilitation share of the obligation with excess new construction units at the Ceramics Plant site instead.

## Summary of Obligation/Proposals to Address Obligation

Frenchtown Borough will address its affordable housing obligation (as determined by COAH in the proposed but unadopted 2014 Rules) as follows:

Rehab Obligation (2010 or 2014)	4 units	4 units to be addressed either through the previously proposed rehabilitation program, through a new County rehabilitation program, if available, or through excess new construction units.
Prior Round Obligation (1987-1999)	2 units	Fully addressed in prior round with 2 of 3 affordable age-restricted units in DeSapio Senior Housing development.
Prior Round Obligation (1999-2014)	8 units	6 rental units plus 2 bonus credits for River Mills and Shale Cliff redevelopment projects plus 1 excess age-restricted rental unit from DeSapio project (for total of 9 credits on 7 units).
Prospective Obligation (2014-2024)	6 units	17 (probably rental) units plus possibility of 2 more rental bonus credits from Overlay Zoning/Redevelopment at Ceramics Plant.
TOTAL:	20 units (counting rehab obligation)	<i>26 new units plus 2-4 rental bonuses (plus possibility of 4 rehabilitation units) for total of 28-34 credits.</i>

**SUMMARY OF PLAN  
FOR  
TOTAL FAIR SHARE OBLIGATION**

**MUNICIPALITY:** \_\_\_\_\_

**COUNTY:** \_\_\_\_\_

Hunterdon County

	EST. OBLIG.	COMPLETED UNITS	PROPOSED UNITS	LOW	MOD	VERY LOW	TOTAL UNITS
<b>Rehabilitation Share (per 2010 Census)</b>	4	0	4				4
<i>Rehabilitation Credits</i>		0					0
Rehab Program(s)			4				4
<b>Remaining Rehabilitation Share</b>	4		4				4
<b>1987-1999 Prior Round Obligation (1)</b>							
<i>Vacant Land Adjustment (if applicable)</i>				1AR	1AR		2AR
<b>Unmet Need RDP</b>							
<b>Mechanisms (2)</b>							
Prior Cycle Credits (4/1/80-12/31/86)							
Credits without Controls							
Inclusionary Zoning		2AR		1AR	1AR		2AR
100% Affordable							
Accessory Apartments							
Write Down-Buy Down/Market-to-Affordable							
Alternative Living/Supportive & Special Needs							
Assisted Living							
RCA Units (previously approved)							
Compliance Bonus							
Rental Bonuses							
<b>Total Prior Round Credits</b>	2	2AR		1AR	1AR		2AR
<b>Units Addressing 1987-1999 Prior Round</b>	2	2AR		1AR	1AR		2AR
<b>1999-2015 GAP Period Estimate (1)</b>							
<b>Mechanisms (2)</b>	8	1AR	6NAR	4	3		7
<i>Vacant Land Adjustment (if applicable)</i>							
<b>Unmet Need RDP</b>							
Inclusionary Zoning		1AR		1AR			1AR
Redevelopment			6NAR	3NAR	3NAR		6NAR
100% Affordable							
Accessory Apartments							
Market-to-Affordable							
Supportive & Special Needs/ Alternative Living							



Assisted Living							
Extended Affordability Controls							
Other (describe on a separate sheet)							
Smart Growth Bonuses							
Redevelopment Bonuses							
Rental Bonuses			2				2
<i>Total Third Round Credits</i>	9	1AR	6NAR				9
<b>Units Addressing 1999-2015 GAP period</b>	7	1AR	6NAR				7
<b>2015-2025 Third Round Obligation (1)</b>							
<b>6</b>			17NAR				17NAR
<b>Mechanisms (2)</b>							
<i>Vacant Land Adjustment (if applicable)</i>							
<b>Unmet Need</b>							
<b>RDP</b>							
Inclusionary Zoning (currently an overlay zone but is being recast as a Redevelopment Area at the developer's request; Borough Council has designated it as a Redevelopment Area)			17NAR	7NAR	8NAR	2NAR	17NAR
Redevelopment (proposed as an alternative to overlay zone)							
100% Affordable							
Accessory Apartments							
Market-to-Affordable							
Supportive & Special Needs/ Alternative Living							
Assisted Living							
Extended Affordability Controls							
Other (describe on a separate sheet)							
Smart Growth Bonuses							
Redevelopment Bonuses							
Rental Bonuses							
<i>Total Third Round Credits</i>	17		17NAR	7NAR	8NAR	2NAR	17NAR
<b>Units Addressing 2015-2025 Fair Share</b>	17		17NAR	7NAR	8NAR	2NAR	17NAR

(1) Identify the basis for asserting this number as the municipal obligation. (Per Judge Miller's Order, COAH's proposed but unadopted 2014 Rules at N.J.A.C. 5:99)

(2) Provide a description for each mechanism. (Please see attached narrative)

<b>TOTALS</b>	<b>#</b>	<b>% OF TOTAL OBLIGATION</b>
<b>LOW/MOD UNITS</b>	<b>26(12L, 12M, 2VL)</b>	<b>162.5%</b>
<b>VERY LOW INCOME</b>	<b>2</b>	<b>13%</b>
<b>BONUS CREDITS</b>	<b>2-4</b>	<b>12.5-25%</b>
<b>AGE-RESTRICTED</b>	<b>3</b>	<b>18.75%</b>
<b>NOT AGE-RESTRICTED</b>	<b>23</b>	<b>143.75%</b>





"Approvable site" means a site that may be developed for low and moderate income housing in a manner consistent with the rules or regulations of all agencies with jurisdiction over the site. A site may be approvable although not currently zoned for low and moderate income housing. "Available site" means a site with clear title, free of encumbrances which preclude development for low and moderate income housing. "Developable site" means a site that has access to appropriate water and sewer infrastructure, and is consistent with the applicable areawide water quality management plan (including the wastewater management plan) or is included in an amendment to the areawide water quality management plan submitted to and under review by DEP. "Suitable site" means a site that is adjacent to compatible land uses, has access to appropriate streets and is consistent with the environmental policies delineated in N.J.A.C. 5:93-4.

October 6, 2015

# 100% Affordable Housing Project

# Summary of Project Status

MUNICIPALITY: Borough of Frenchtown

COUNTY: Hunterdon County

Project Name: NONE Address: \_\_\_\_\_ Block(s): \_\_\_\_\_ Lot(s): \_\_\_\_\_ Current Zoning: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_ Rezoning Needed: \_\_\_\_\_ (Yes or No)

Affordable Units			Rental Bonuses		Project Completion Status				Project Site Suitability Criteria <sup>(1)</sup>		# Built Units
Low AR <sup>(1)</sup>	Moderate		Age- Restricted	Not Age- Restricted	Approvable (Status of local and State approvals)	Available (clear title?)	Developable				
	AR <sup>(1)</sup>	NAR <sup>(2)</sup>					Total Units	Sewer	Water	Consistent w/WQMP	Suitable
Project Narrative: No 100% affordable housing projects proposed.											

- (1) Age-Restricted
- (2) Not Age-Restricted
- (3) Site suitability criteria are as follows:

"Approvable site" means a site that may be developed for low and moderate income housing in a manner consistent with the rules or regulations of all agencies with jurisdiction over the site. A site may be approvable although not currently zoned for low and moderate income housing. "Available site" means a site with clear title, free of encumbrances which preclude development for low and moderate income housing. "Developable site" means a site that has access to appropriate water and sewer infrastructure, and is consistent with the applicable areawide water quality management plan (including the wastewater management plan) or is included in an amendment to the areawide water quality management plan submitted to and under review by DEP. "Suitable site" means a site that is adjacent to compatible land uses, has access to appropriate streets and is consistent with the environmental policies delineated in N.J.A.C. 5:93-4.

October 6, 2015